

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

| | | |
|----------------------------------|---|------------------|
| ARZELL WILKERSON, |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | |
| |) | |
| CAPITAL ONE BANK, |) | CIVIL ACTION NO. |
| Defendant/Third Party Plaintiff, |) | 2:05 CV 1192-W |
| |) | |
| vs. |) | |
| |) | |
| ANTHONY WILKERSON, |) | |
| Third Party Defendant |) | |

NOTICE REGARDING STATUS AND MOTION

COMES NOW, Third Party Plaintiff Capital One Bank ("Capital One"), and pursuant to this Court's Order dated May 11, 2007, provides the Court with Notice of the Status of its claim against Third-Party Defendant Anthony Wilkerson and moves the Court to remove the case from the July 23, 2007 jury trial calendar. For its report and motion Capital One says the following:

1. Anthony Wilkerson was served with the Third-Party Summons and Complaint on February 17, 2007 and his Answer was due on March 9, 2007.
2. On April 3, 2007, Capital One applied to the Clerk for an Entry of Default against Third-Party Defendant Anthony Wilkerson.
3. Third-Party Defendant Anthony Wilkerson's Default was entered on the record by the Clerk on April 5, 2007.

4. On April 9, 2007, the Clerk's office mailed Third-Party Defendant Anthony Wilkerson a Notice of Entry of Default.

5. As of the date of this filing, Capital One has not had any further contact with Third-Party Defendant Anthony Wilkerson.

6. Capital One did not request a trial by jury in its Third Party Complaint and respectfully requests that this matter be removed from the July 23, 2007 jury trial calendar. Capital One respectfully requests that this matter be set for a hearing on the issue of damages.

7. Finally, in light of Third Party Defendant Anthony Wilkerson's refusal to answer in this matter, and the confidential nature of many of the documents in this case (including the confidential settlement agreement between Capital One and the original Plaintiff and copies of Capital One's legal bills for expenses incurred in the defense of the original lawsuit and prosecution of this third party claim), Capital One requests that it be allowed to submit its proof of damages to the Court under seal in lieu of providing these documents directly to Third Party Defendant.

Respectfully submitted, this the 16th day of May, 2007.

s/ Ramsey Duck
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CERTIFICATE OF SERVICE

I hereby certify that on May 16, 2007, I served a copy of the foregoing by U.S. Mail to the following individuals:

Norman Hurst Jr., Esq.
Attorney for the Plaintiff
462A Sayre Street
Montgomery, Alabama 36104-4124

Anthony Wilkerson
4375 Wares Ferry Road
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s/ Ramsey Duck
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